

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

TRACEY DENYSE COSTON

PLAINTIFF

v.

CIVIL CASE NO. 3:18-CV-262-RP

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER GRANTING PAYMENT OF ATTORNEY'S FEES

Plaintiff seeks an award of attorney's fees in the amount of \$5,872.86 paid under the Equal Access to Justice Act, 28 U.S.C. Section 2412. Docket 18. Defendant does not object to the requested attorney's fees, but does argue that plaintiff's motion for attorney's fees is premature at this point. Docket 20.

The Commissioner asserts that the Motion for Attorney's fees is premature because the judgment is not final as it has sixty days after entry of the judgment to appeal. *Id.* The Commissioner cites an Eighth Circuit Court of Appeals decision for the proposition that "The better course of action is for the district court to refrain from passing on the question of attorney fees until the litigation is final for the purposes of the EAJA." *Harmon v. United States*, 101 F.3d 574, 587 (8th Cir. 1996). However, the *Harmon* decision involved a bankruptcy case in another circuit and ultimately the Court held that the district court had jurisdiction to rule on the fee application. Additionally, the court notes that it routinely grants motions for attorney's fees without waiting sixty days for the judgment to be final and the undersigned is not aware of any similar previous objection by the Commissioner. Further, in its objection in this case, the Commissioner does not suggest that it is contemplating appealing the judgment.

The court has reviewed the motion and the record and concludes that the motion is well

taken. It is

ORDERED

that the defendant pay the plaintiff \$5,872.86 in attorney's fees and mail the award to plaintiff's attorney.

SO ORDERED, this, the 24th day of September, 2019.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE